MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2016/2017

UIB2612 – ISLAMIC BANKING AND FINANCE LAW

(All Sections / Groups)

21st OCTOBER 2016
Reading Time : 9.00 a.m. – 9.15 a.m.
(15 Minutes)
Answering Time: 9.15 a.m. – 12.15 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 2 pages with 5 Questions only.

3. Attempt **FOUR** out of FIVE questions. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are allowed to bring into Examination Hall CLEAN and ORIGINAL copy of:
   i. Islamic Financial Services Act 2013 (Act 759) and
   ii. Central Bank of Malaysia Act 2009

   Students are not allowed to lend or borrow statute(s) during the Examination.

5. Please write all your answers in the Answer Booklet provided.

ANSWER ANY FOUR (4) OUT OF FIVE (5) QUESTIONS.

QUESTION 1

Article 121(1A) of the Federal Constitution sets out the jurisdiction of the Courts in Malaysia, that Civil Courts have no jurisdiction over Shariah Courts. Under List I (Federal List) of the Constitution, jurisdiction of Civil Courts covers mercantile laws which are the basis of banking and finance. Hence, the Shariah Courts have no jurisdiction over issues pertaining to banking and finance.

Discuss the judicial decisions in Islamic Banking disputes with reference to relevant case law.

(Total 25 marks)

QUESTION 2

The word "*Riba*", in Arabic language, literally means an "increment' or addition". In Islamic *Fiqh* the term *riba* has a special meaning. *Riba* is an unjustified increment in borrowing or lending money, paid in kind or in money above the amount of loan, as a condition imposed by the lender or voluntarily by the borrower. *Riba* defined in this way is called *in Fiqh riba al-duyun* (debt usury). *Riba* also is an unjustified increment gained by the seller or the buyer if they exchanged goods of the same kind in different quantities. This is called "*riba al-fadl*" or "*riba-al-buyu*" (trade usury).

Critically analyse the stages of prohibition of riba.

(Total 25 marks)

QUESTION 3

Takaful is an insurance concept in Shariah whereby a group of participants mutually agree among themselves to guarantee each other against a defined loss or damage that may inflict upon any of them by contributing as donation (*tabarru'*) in the *takaful* funds. It emphasizes unity and co-operation (*ta'awwun*) among participants.

Critically analyse the concept of *tabarru'* and *taawwun* and the current operation of *takaful* in Malaysia.

(Total 25 marks)

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QUESTION 4

"The increase of trade flows to the East and within emerging economies combined with growing interest in Islamic finance, means that Islamic trade finance is now a serious alternative. A constant challenge for business leaders is to anticipate and interpret how global trade is changing, while understanding the opportunities and risks it creates. Boards and management of Islamic banks must take note. Trade, technology, culture, labor and capital will integrate at different rates across these markets and need to be anticipated when transforming the financial institution's trade finance operations."

-Ashar Nazim, Partner, Global Islamic Banking Center of Excellence at Ernst & Young Global Limited

Critically discuss the concept of **trade (*Bai'*)** in *Islamic* Banking and its application in current practice in Islamic Banking practices.

(Total 25 marks)

QUESTION 5

"Shari'ah supervision or Shari'ah advisory play an essential role in the governance of Islamic financial institution and forms part of the principal component of the Shari'ah governance framework."

(Hamza, 2013)

In reference to the Central Bank of Malaysia Act 2009 and case law, discuss the controversial provisions of Section 57 of the Central Bank of Malaysia Act 2009 in the explaining the roles and functions of the *Shariah* Advisory Council.

(Total 25 marks)

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